

**CITY OF HAMPTON  
WETLANDS BOARD**

**PUBLIC HEARING AND REGULAR MEETING  
City Council Chambers, 8<sup>th</sup> floor, City Hall**

**January 22, 2002**

**PRESENT:** Chairman William M. Snider, II, Vice-Chairman William L. Wood, and Board Members Thomas W. Morris and Gayle Cozzens.

**ITEM I. CALL TO ORDER.**

and

**ITEM II. ROLL CALL.**

Chairman Snider called the meeting to order at 5:00 p.m., introducing each of the Board Members present, noting that Board Member Bellamy was absent. Staff persons in attendance were Ed Haughton and Sharon McSmith, City Planners.

**ITEM III. ELECTION OF CHAIRMAN.**

Mr. Haughton requested nominations for Chairman of the Wetlands Board for the 2002 calendar year.

A motion was made by Vice-Chairman Wood and seconded by Board Member Morris to nominate William M. Snider, II, to another one-year term as Chairman. Vice-Chairman Wood noted that Mr. Snider is the most experienced Board Member with the most expertise and has been and will be an ideal Chairman to the Wetlands Board. There being no other nominations, a roll call vote on the motion resulted as follows:

AYES:	Cozzens, Morris, Wood, Snider
NAYS:	None
ABST:	None
ABSENT:	Bellamy

**ITEM IV. ELECTION OF VICE-CHAIRMAN**

Mr. Haughton requested nominations for Vice-Chairman of the Wetlands Board for the 2002 calendar year.

A motion was made by Board Member Morris and seconded by Board Chairman Snider to nominate William L. Wood to another one-year term as Vice-Chairman.

Board Member Morris noted that Mr. Wood has done an excellent job in the position and would like to see him continue as Vice-Chairman; when Chairman Snider is not available, the Board needs the expertise of Vice-Chairman Wood. There being no other nominations, a roll call vote on the motion resulted as follows:

AYES: Cozzens, Morris, Wood, Snider  
 NAYS: None  
 ABST: None  
 ABSENT: Bellamy

Chairman Snider stated he appreciates the continued support of the Board.

#### **ITEM V. CONSIDERATION OF MINUTES.**

There being no additions or corrections, the minutes of the November 27, 2001 Wetlands Board meeting were approved by a voice vote that resulted as follows:

AYES: Cozzens, Morris, Wood, Snider  
 NAYS: None  
 ABST: None  
 ABSENT: Bellamy

#### **ITEM VI. JOINT APPLICATIONS (PUBLIC HEARING ITEMS).**

There were no public hearing items to be presented.

#### **ITEM VII. STAFF REPORTS: Proposed Comprehensive Plan Amendment.**

Mr. W. Keith Cannady, City Planner, presented a draft amendment to the City's 2010 Comprehensive Plan to the Wetlands Board. A copy of Mr. Cannady's memo and presentation are attached hereto and made a part hereof.

Vice-Chairman Wood questioned if projects will come back to the Board because of terminology in the amendment relative to cost effectiveness vs. impact to wetlands. Mr. Cannady stated the amendment is mainly policy for homeowners to consider, as well as for City projects; staff recognizes the Wetlands Board has State guidelines under which it operates.

Chairman Snider stated these guidelines are in the Comprehensive Plan and relate mainly to City projects, especially in relation to cost effectiveness, and are not the regulations of the Wetlands Board. The amendment will not be in the Zoning Ordinance, only included in the Comprehensive Plan to guide future City decisions.

Mr. Cannady stated we are a little behind schedule in getting the amendment adopted for several reasons, including comments on the draft not coming in as quickly as we had hoped, and our having difficulty in getting a map prepared of the Chesapeake Bay areas. As of Friday, staff has received comments from most of the State agencies, and the Peninsula Homebuilders, Newport News Waterworks, etc., as well as a number of City staff whose responsibilities relate to storm water. The Planning Commission was given a briefing on January 14<sup>th</sup> and the amendment will hopefully be a public hearing item at their February 11<sup>th</sup> meeting; we can then proceed to City Council in March. The State agency will also meet in March, so we will ask them for an extension to finalize our amendment.

In response to a question by Chairman Snider concerning whether the City will take ownership of the Coastal Dune Protection Act from the Virginia Marine Resources Commission (VMRC), Mr. Cannady stated as far as he knows the City will not take ownership, but he can look into the matter. Mr. Haughton stated the City has no plans to take ownership of the Act.

In response to Mr. Gene Cone's concerns (from the audience/no address) relating to the tributary on which he lives being full of filth and garbage and the City not cleaning it, Mr. Cannady stated there may be something that we can do either through policy or some other way, and that he would look into the matter.

### **STAFF REPORTS Continued: By-Laws.**

Chairman Snider stated the proposed change to the By-Laws will change the election of Chairman and Vice-Chairman from the December meetings to the January meetings. This is being proposed because there are typically no public hearing items in December and, therefore, no reason to meet other than to elect officers; this change would also allow any new Board Members to participate in the election process since appointments are made by City Council in December.

A motion was made by Vice-Chairman Wood and seconded by Board Member Morris to approve the following change to the By-Laws of the Hampton Wetlands Board:

#### **RULE #1 ELECTION AND DUTIES OF OFFICERS OF THE BOARD**

(1) At each regular ~~December~~ January meeting, the Board shall elect from its membership a Chairman and Vice-Chairman to serve for one (1) year, unless they resign or are removed from office. Should such a vacancy occur, the office shall be filled at the next regular meeting by election from the membership. Should both offices be vacant, the Staff Coordinator shall preside at the next regular meeting until the election can be held.

A roll call vote on the motion resulted as follows:

AYES: Cozzens, Morris, Wood, Snider  
 NAYS: None  
 ABST: None  
 ABSENT: Bellamy

**STAFF REPORTS Continued: Wetlands Permit #00-2034.**

Mr. Haughton stated he has received a request from Fort Monroe to extend their project deadline for one year for Wetlands Permit #00-2034.

In response to a question by Board Member Morris concerning why they are going to be unable to finish the project, Mr. Haughton stated they won't be able to issue their Notice to Proceed for the wave screen until February 1, 2002. If the extension is approved, they will issue the Notice to Proceed for the remainder of the construction contract in mid-April, 2002.

A motion was made by Board Member Morris and seconded by Board Member Cozzens to approve a one-year extension, until March 27, 2003, for Wetlands Permit #00-2034. A roll call vote on the motion resulted as follows:

AYES: Cozzens, Morris, Wood, Snider  
 NAYS: None  
 ABST: None  
 ABSENT: Bellamy

**STAFF REPORTS Continued: Wetlands Symposium.**

The entire Board expressed interest in attending the 20<sup>th</sup> Annual Virginia Wetlands Management Symposium to be held Saturday, February 23, 2002, at Hampton University. Mr. Haughton will arrange registration for all Board members and the Planning Department will cover the cost (\$15 per person, non-refundable).

**ITEM VIII. MATTERS BY THE BOARD MEMBERS.**

Chairman Snider stated, as an informational item from the City's Chesapeake Bay Review Committee, that the City Manager has received a letter from the Chesapeake Bay Local Assistance Department by virtue of a former Wetlands Board member complaining about 7 projects that were reviewed by the Chesapeake Bay Review Committee. The complaints were not related to matters that came before the Wetlands Board.

In response to Vice-Chairman Wood's question relating to whether the Board voted on the projects that resulted in a problem surfacing during the Chesapeake Bay Review

Committee's review, Chairman Snider stated that the letter does not speak to the seven specific projects listed in the complaint, but he does not believe they had anything to do with the Wetlands Board. It is possible that some of the projects required approval by both parties, but the specific complaints had nothing to do with decisions by the Wetlands Board.

In response to questions by Mr. Cone (from the audience/no address) concerning the name of the former Board Member who made the complaint, Chairman Snider stated the person's name was not relative to the information being provided, and if there was a need to know, Mr. Cone should address Mr. Greg Goetz, the Planning Department's representative on the Chesapeake Bay Review Committee.

Chairman Snider stated that the State investigated these projects and discovered several procedural concerns relative to the City's plans review process; the State is prepared to send a detailed letter to the City that future approvals follow all procedural regulations relative to the local Chesapeake Bay Act program. Staff has not yet come back with a new set of procedures. The problem was a procedural matter and the State did not find anything wrong with the decisions that had been made by the Review Committee—they were in compliance with the current law.

Chairman Snider also stated that effective January 1, 2002, the State Code had been changed which requires all localities impacted by the Chesapeake Bay watershed one year in which to modify their codes to reflect that there will be absolutely no activity allowed in the 100' buffer. This even applies to grandfathered lots—those recorded prior to the Chesapeake Bay Preservation Act of 1989; a property owner can still ask to develop in the 100' buffer on lots recorded prior to the Act, but it will be considered an exception. In the past we have allowed developers in the landward 50' of the 100' buffer; this is called a modification in which the applicant did not have to show hardship but did have to provide mitigation or sufficient BMP to compensate for the impervious surface. The City is interpreting this as the State Code requiring that everything in the 100' buffer becomes an exception and the developer/property owner has to prove hardship in order to build in the 100' buffer.

In response to a question by Board Member Cozzens that this seems like an advantage, Chairman Snider stated even though some lots were grandfathered, anything in the 100' buffer now is considered to be an exception; we can't require someone not to build, but they have to prove there is a hardship. The City has to amend the City Code by January 1, 2003, to reflect these changes.

In response to questions by Vice-Chairman Wood concerning the date of amendments, Chairman Snider stated the State has given all localities up to one year to amend their local codes to comply with the State Code. On lots recorded after January of this year, you basically cannot do anything in the 100' buffer unless you can prove hardship, and then there will be stronger requirements for BMP's relating to any encroachment. The Act cannot render a lot completely unusable unless the State is willing to buy it. If you have a lot recorded after January 1, 2002, and if there is any

way to put your structure on your lot to keep the impervious surface outside the buffer, then you have to do it that way, even though you may not want to develop the property in that manner. Anyone developing on raw land that has not been recorded as of Jan. 1 of this year, needs to be very careful in deciding how to develop their property.

A copy of the letter from the Chesapeake Bay Local Assistance Department to the City Manager relaying these changes was provided to each Board Member, a copy of which is attached hereto and made a part hereof.

**ITEM IX. MATTERS BY THE PUBLIC.**

There were no matters presented by the public.

**ITEM X. ADJOURNMENT.**

There being no additional business, the meeting was adjourned at 5:40 p.m.

Respectfully submitted,

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Edward J Haughton, City Planner  
Secretary to the Board

APPROVED BY:

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William L. Wood  
Vice-Chairman, Hampton Wetlands Board